

Seventh Circuit, and then petitioned the Supreme Court for a writ of *certiorari* to review the Seventh Circuit's prior decision in this case, which was granted in part. The Supreme Court ruled that the Seventh Circuit had lacked jurisdiction to issue its prior decision and remanded the case to the Seventh Circuit. The Seventh Circuit addressed both the Supreme Court's remand of the earlier procedural posture of this case and Spurgeon's appeal of this Court's dismissal of the case – along with other market-timing cases – in one consolidated procedure. The Seventh Circuit dismissed the earlier posture of this case remanded from the Supreme Court for want of jurisdiction. The Seventh Circuit then reversed this Court's dismissal of the case because that dismissal was based on the Seventh Circuit's 2005 decision, which the Supreme Court had vacated for lack of jurisdiction. The Seventh Circuit distinguished the substantive decision it had reached in its 2005 decision, and explained that the Supreme Court had confirmed its validity in a related decision. The Seventh Circuit also left open the possibility that, once remanded to state court, the case could be removed again in light of this new governing law.

Before the Seventh Circuit's mandate issued, however, the Circuit Court of Madison County reopened the case there, on November 9, 2006. Pacific Life promptly removed it to this Court on November 13, 2006. It was docketed as 06-cv-925.

After the Seventh Circuit's mandate issued, this Court promptly followed that mandate and remanded the case in its earlier procedural posture, docketed 04-cv-0355-MJR, to the Circuit Court of Madison County on November 20, 2006. Therefore, to ensure that this case has been properly removed, and to avoid any difficulties that might have been created by the state court's reopening the case before this Court remanded it, Pacific Life has also removed it following this Court's remand, docketed as 06-cv-983-GPM.

Pacific Life respectfully requests that the two docketed cases be consolidated under the first-filed docket number, 06-cv-925, because they are different stages of the same case and consolidation will avoid further duplication of effort by this Court.

WHEREFORE, Pacific Life Insurance Company, pursuant to Federal Rule of Civil Procedure 42(a), respectfully moves to consolidate the above-captioned case with case number 06-cv-925-JPG.

Dated: November 30, 2006

Respectfully submitted,

PACIFIC LIFE INSURANCE COMPANY

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Certificate of Service

The undersigned certifies that on this 30th day of November, 2006, a copy of the foregoing has been served upon the attorneys of record through operation of the Court's ECF system which will electronically send notice of said filing to:

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and by U. S. Mail, by enclosing same in envelopes addressed as below, with proper first class postage fully prepaid, and depositing same in the U. S. Mail at Edwardsville, Illinois, at 5 p.m.:

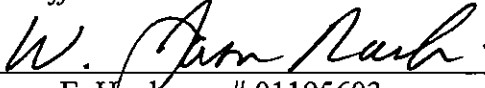
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